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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/620,302

Filing Date: July 14, 2003

Appellant(s): GROVER ET AL.

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Kevan L. Morgan  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 07/16/2009 appealing from the Office action mailed 12/16/2009

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,982,951 B2	Doverspike et al.	1-2006
5,999,286	Venkatesan	12-1999
6,324,162 B1	Chaudhuri	11-2001
2002/0181393 A1	Grover et al.	12-2002

#### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claims 1-3 and 15-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinas et al. ("Ellinas", United States Patent No.: 6,760,302 B1).

**Consider claims 1 and 15**, Ellinas clearly shows and discloses a telecommunications network and method, comprising: plural nodes connected by plural spans and arranged to form a mesh network (nodes 301, 303, 305, 307, 309, 311, 313, 315, 319, and 321 in figure 3 and column 8, lines 27-30); at least one pre-configured (pre-determined) cycle of spare capacity being established in the mesh network, the pre-configured cycle including plural nodes of the mesh network (protection cycles 323, 325, 327, 3229, and 331 in figure 3 and column 8, lines 30-32) and being pre-configured prior to any span or node failure (protection cycles are pre-determined prior to the activation of the network, column 7, lines 59-62); and the plural nodes of the pre-configured cycle (protection cycle 331 in figure 3) being configured to protect at least one path segment (segment 317-311-309), where the path segment includes at least two intersecting nodes(nodes 317 and 309) within the pre-configured cycle (331 in figure 3) and at least one intermediate node (311) in a path that includes the two

intersecting nodes(317 and 309) and straddles the pre-configured cycle, the intermediate node not being a part of the pre-configured cycle (node 311 is not on protection cycle 331 in figure 3) providing two restoration paths to protect against a failure of a span straddling the pre-configured cycle ( if straddling path 333 fails, node 309 can communicate with node 311 along protection path 331 and through node 317 or along protection path 331 and through node 313).

However Ellinas does not specifically disclose that the failure of a span on the pre-configured cycle provides one restoration path.

Even though Ellinas does not specifically disclose a protection cycle going in the opposite direction of protection cycle 331 and therefore not including the intermediate node 311, Official Notice is taken that it would be obvious to a person of ordinary skill in the art to do so in order to provide an alternate path in case of failure.

Consider **claims 2 and 16**, and applied to claims 1 and 15 respectively above, Ellinas clearly shows a mesh network in which the path segments are segments of a working path with a start node not connected to the pre-configured cycle (segment starting at node 321 in figure 3).

Consider **claims 3 and 17**, and applied to claims 1 and 15 respectively above, Ellinas clearly shows a mesh network in which the path segments are segments of a working path with a start node not connected to the pre-configured cycle (segment ending at node 303 in figure 3).

**Claims 4-7, 10, 18-21, and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinas et al. ("Ellinas", United States Patent No.: 6,760,302 B1) in view of Grover et al. ("Grover", United States patent Application Publication No.: US 2002/0181393 A1).

Consider **claim 4**, and as applied to claim 1 above, Ellinas clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures by modeling the network (identifying all working flows in the mesh network to be restored), (column 8 lines 16-20).

However Ellinas does not specifically disclose identifying the spare capacity of the pre-configured cycle to restore all working flows for all spans subject to failure in all path segments; and providing spare capacity along the pre-configured cycle sufficient to restore all working flows.

In the same field of endeavor Grover shows and discloses a mesh telecommunications network wherein traffic restoration routes are provided by determining the working capacity and corresponding spare capacity, and adapting the network to provide the required spare capacity (figures 1 and 2, abstract, paragraphs [0010]-[0030]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine the working capacity and adapting the network to provide the required spare capacity as disclosed by Grover in the

telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 5**, and as applied to claim 1 above, Ellinas clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However, Ellinas does not disclose establishing a pre-configured cycle comprising the steps of pre-selecting a set of candidate cycles for forming into pre-configured cycles; allocating working paths and spare capacity in the mesh network based on the set of candidate cycles; and providing the mesh network with spare capacity arranged in pre-configured cycles according to the allocation determined in the preceding step.

In the same field of endeavor Grover shows and discloses a mesh telecommunications network wherein a set of eligible restoration routes is generated, the corresponding spare capacity is determined, and the network is adapted to provide the required spare capacity for the selected restoration routes (figures 1 and 2, abstract, paragraphs [0010]-[0030]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to generate a set of eligible restoration routes, determine the corresponding spare capacity, and adapt the network to provide the required spare capacity for the selected restoration routes as disclosed by Grover in the telecommunications network of Ellinas in order to provide efficient path protection in a

mesh network.

Consider **claim 6**, and as applied to claim 5 above, Ellinas clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However, Ellinas does not specifically disclose that the allocation of working paths and spare capacity is jointly optimized.

In the same field of endeavor, Grover clearly shows and discloses establishing a bi-criteria (route and capacity) objective function for the selection of a set of restoration routes (figure 2 and paragraphs [0046]-[0049]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to jointly optimize the allocation of working paths and spare capacity as disclosed by Grover in the telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 7**, and as applied to claim 5 above, Ellinas clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However, Ellinas does not specifically disclose pre-selecting candidate cycles by ranking a set of closed paths in the mesh network according to the degree to which each closed path protects spans on and off the closed path, and selecting candidate cycles from the set of closed paths.

In the same field of endeavor, Grover discloses ranking and selecting restoration routes from a larger set of candidates (paragraphs [0046]-[0057], table 3).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select protection cycles from a set of large candidates by ranking said protection cycles as disclosed by Grover in the telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 10**, and as applied to claim 5 above, Ellinas as modified by Grover discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures wherein other conventional methods of determining the directed cycles may also be used (column 12 lines 24-26).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to use other conventional methods including a mixed selection strategy to pre-select protection cycles in the telecommunications network of Ellinas as modified by Grover for the purpose of optimizing the path protection in the network.

Consider **claim 18**, and as applied to claim 15 above, Ellinas clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures by modeling the network (identifying all working flows in the mesh network to be restored), (column 8 lines 16-20).

However Ellinas does not specifically disclose identifying the spare capacity of the pre-configured cycle to restore all working flows for all spans subject to failure in all path segments; and providing spare capacity along the pre-configured cycle sufficient to restore all working flows.

In the same field of endeavor Grover shows and discloses a mesh telecommunications network wherein traffic restoration routes are provided by determining the working capacity and corresponding spare capacity, and adapting the network to provide the required spare capacity (figures 1 and 2, abstract, paragraphs [0010]-[0030]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to determine the working capacity and adapting the network to provide the required spare capacity as disclosed by Grover in the method of operating telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 19**, and as applied to claim 15 above, Ellinas clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However, Ellinas does not disclose establishing a pre-configured cycle comprising the steps of pre-selecting a set of candidate cycles for forming into pre-configured cycles; allocating working paths and spare capacity in the mesh network

based on the set of candidate cycles; and providing the mesh network with spare capacity arranged in pre-configured cycles according to the allocation determined in the preceding step.

In the same field of endeavor Grover shows and discloses a mesh telecommunications network wherein a set of eligible restoration routes is generated, the corresponding spare capacity is determined, and the network is adapted to provide the required spare capacity for the selected restoration routes (figures 1 and 2, abstract, paragraphs [0010]-[0030]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to generate a set of eligible restoration routes, determine the corresponding spare capacity, and adapt the network to provide the required spare capacity for the selected restoration routes as disclosed by Grover in the method of operating telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 20**, and as applied to claim 19 above, Ellinas clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However, Ellinas does not specifically disclose that the allocation of working paths and spare capacity is jointly optimized.

In the same field of endeavor, Grover clearly shows and discloses establishing a

bi-criteria (route and capacity) objective function for the selection of a set of restoration routes (figure 2 and paragraphs [0046]-[0049]).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to jointly optimize the allocation of working paths and spare capacity as disclosed by Grover in the method of operating telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 21**, and as applied to claim 19 above, Ellinas clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However, Ellinas does not specifically disclose pre-selecting candidate cycles by ranking a set of closed paths in the mesh network according to the degree to which each closed path protects spans on and off the closed path, and selecting candidate cycles from the set of closed paths.

In the same field of endeavor, Grover discloses ranking and selecting restoration routes from a larger set of candidates (paragraphs [0046]-[0057], table 3).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to select protection cycles from a set of large candidates by ranking said protection cycles as disclosed by Grover in the method for operating a telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 24**, and as applied to claim 19 above, Ellinas discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures wherein other conventional methods of determining the directed cycles may also be used (column 12 lines 24-26).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to use other conventional methods including a mixed selection strategy to pre-select protection cycles in the telecommunications network of Ellinas as modified by Grover for the purpose of optimizing the path protection in a mesh network.

**Claims 8 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinas et al. ("Ellinas", United States Patent No.: 6,760,302 B1) in view of Grover et al. ("Grover", United States Patent Application Publication No.: US 2002/0181393 A1), as applied to claims 7 and 21 above, and further in view of Grover et al. ("Grover-ICC'98", "Cycle-Oriented Distributed Preconfiguration: Ring-like Speed with Mesh-like Capacity for Self-Planning Network Restoration", Proceedings of IEEE ICC'98, Atlanta, June 7-11, 1998 pp. 537-543)

Consider **claim 8**, and as applied to claim 7 above, Ellinas clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However Ellinas does not specifically disclose pre-selecting candidate cycles by determining a scoring credit for each closed path in the set of closed paths, where the scoring credit of said closed path is calculated to predict the success of the closed path as a pre-configured cycle; and by choosing a select number of closed paths based on the scoring credit to be the pre-selected candidate cycles.

In the same field of endeavor, Grover-ICC'98 shows and discloses pre-selecting candidate cycles by determining a score that measures the potential of a closed path to form an effective pre-configured cycle and by choosing a select number of closed paths based on the scoring credit to be the pre-selected candidate cycles (page 12 and figure 4).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to pre-select candidate cycles based on a score as disclosed by Grover-ICC'98 in the telecommunications network of Ellinas as modified by Grover in order to provide efficient path protection in a mesh network.

Consider **claim 22**, and as applied to claim 21 above, Ellinas clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However Ellinas does not specifically disclose pre-selecting candidate cycles by determining a scoring credit for each closed path in the set of closed paths, where the scoring credit of said closed path is calculated to predict the success of the closed path

as a pre-configured cycle; and by choosing a select number of closed paths based on the scoring credit to be the pre-selected candidate cycles.

In the same field of endeavor, Grover-ICC'98 shows and discloses pre-selecting candidate cycles by determining a score that measures the potential of a closed path to form an effective pre-configured cycle and by choosing a select number of closed paths based on the scoring credit to be the pre-selected candidate cycles (page 12 and figure 4).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to pre-select candidate cycles based on a score as disclosed by Grover-ICC'98 in the telecommunications network of Ellinas as modified by Grover in order to provide efficient path protection in a mesh network.

**Claims 11-12 and 25-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinas et al. ("Ellinas", United States Patent No.: 6,760,302 B1) in view of Wang et al. ("Wang", European Patent Application Publication No.: EP 1 146 682 A2).

Consider **claim 11**, and as applied to claim 1 above, Ellinas clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However Ellinas does not specifically disclose recording at a node on a pre-

configured cycle an identification of protected flow paths that pass through the node and are protected by the pre-configured cycle.

In the same field of endeavor, Wang discloses a system and method for path restoration in a telecommunications network wherein a p-cycle planner pre-calculates protection paths and configures these paths for each node (paragraph [0088]).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to configure each node with the pre-calculated protection paths as disclosed by Wang et al. in the telecommunications network of Ellinas et al. in order to provide efficient path protection in a mesh network.

Consider **claim 12**, and as applied to claim 11 above, Ellinas as modified by Wang clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures wherein upon the detection of a failure, the node associated with the failed element switches the data onto a path derived from the cycle protecting that element (column 2 lines 45-65).

Consider **claim 25**, and as applied to claim 15 above, Ellinas clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However Ellinas does not specifically disclose recording at a node on a pre-

configured cycle an identification of protected flow paths that pass through the node and are protected by the pre-configured cycle.

In the same field of endeavor, Wang discloses a system and method for path restoration in a telecommunications network wherein a p-cycle planner pre-calculates protection paths and configures these paths for each node (paragraph [0088]).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to configure each node with the pre-calculated protection paths as disclosed by Wang et al. in the method of operating telecommunications network of Ellinas in order to provide efficient path protection in a mesh network.

Consider **claim 26**, and as applied to claim 25 above, Ellinas as modified by Wang clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures wherein upon the detection of a failure, the node associated with the failed element switches the data onto a path derived from the cycle protecting that element (column 2 lines 45-65).

**Claims 13, 14, 27, and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellinas et al. ("Ellinas", United States Patent No.: 6,760,302 B1) in view of Grover et al. ("Grover", United States Patent Application Publication No.: US 2002/0181393 A1), as applied to claims 4 and 18 above, and further in view of Wang et

al. ("Wang", European Patent Application Publication No.: EP 1 146 682 A2).

Consider **claims 13 and 14**, and as applied to claim 4 above, Ellinas as modified by Grover clearly discloses a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However Ellinas as modified by Grover does not specifically disclose that a path segment is part of a path of an express flow through a network region or that the pre-configured cycle is an area boundary flow protecting p-cycle.

In the same field of endeavor, Wang shows a path segment that is part of a path of an express flow through a network region and also show an area boundary flow protecting p-cycle (figure 9 and paragraph [0086]).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to have path segments as part of a path of an express flow through a network region as well as an area boundary flow protecting p-cycle as shown by Wang in the telecommunications network of Ellinas as modified by Grover in order to provide efficient path protection in a mesh network.

Consider **claims 27 and 28**, and as applied to claim 18 above, Ellinas as modified by Grover clearly discloses a method of operating a telecommunications network in which redundant protection fibers are pre-configured to form protection cycles used to protect the network against link or node failures.

However Ellinas as modified by Grover does not specifically disclose that a path segment is part of a path of an express flow through a network region or that the pre-configured cycle is an area boundary flow protecting p-cycle.

In the same field of endeavor, Wang shows a path segment that is part of a path of an express flow through a network region and also show an area boundary flow protecting p-cycle (figure 9 and paragraph [0086]).

Therefore it would have been obvious, to a person of ordinary skill in the art at the time the invention was made to have path segments as part of a path of an express flow through a network region as well as an area boundary flow protecting p-cycle as shown by Wang in the method of operating telecommunications network of Ellinas as modified by Grover in order to provide efficient path protection in a mesh network.

#### **(10) Response to Argument**

a) Regarding independent claims 1 and 15

Applicant argues:

That Ellinas does not disclose or suggest a protection cycle that is configured to protect a path segment that includes at least two intersecting nodes within the protection cycle and at least one intermediate node that is not part of the protection cycle (page 16, last paragraph of the brief).

Examiner answers:

Fig. 1A in Ellinas shows a planar network with seven network nodes and bi-directional working fibers. The network nodes 101, 103, 105, 107, 111 and 113 are

connected by working fibers indicated by solid arrows between the nodes indicating the direction of data flow. The same nodes are connected by protection fibers shown by dotted arrows in the network. A source user S1, 123 and a destination user D1, 125 are also shown. Consider the situation in Fig. 1A where a working path is established between S1 and D1. The Examiner respectfully disagrees with Applicant's interpretation of Ellinas. To illustrate this, consider the situation in Fig. 4 where a working path is established between S1 and D1 through nodes 101, 105 and 111. A protection cycle is provided in dotted lines in a counter-clockwise direction around nodes 101, 107, 113, 111, 109, and 103. As the Applicant correctly points out, the working data path from S1 to D1 straddles this protection cycle and includes two nodes 111 and 101 that intersect this protection cycle, and an intermediate node 105 that is not part of this protection cycle. Now, consider that data flows normally from source S1 to destination D1 through path 127, node 105 and path 129 when a sudden failure of node 105 occurs. The pre-configured protection cycle around nodes 101, 107, 113, 111, 109, and 103 can still carry data from S1 to D1 effectively protecting the working path established between S1 and D1 through nodes 101, 105 and 111 which straddles the protection cycle.

b) Regarding claims 4-7, 10, 18-21 and 24

Applicant argues:

That nowhere in Grover is there any mention of a pre-configured cycle with plural nodes of the pre-configured cycle being configured "to protect at least one path segment, where the path segment includes at least two intersecting nodes within the

pre-configured cycle and at least one intermediate node in a path that includes the two intersecting nodes and straddles the pre- configured cycle, the intermediate node not being a part of the pre-configured cycle and the pre- configured cycle providing two restoration paths to protect against a failure of a span straddling the pre-configured cycle and one restoration path for a failure of a span on the pre-configured cycle," as required by applicants' Claims 1 and 15.

Examiner answers:

That the answer provided for claims 1 and 15 above addresses this argument.

c) Regarding claims 8 and 22

Applicant argues:

That nowhere in Grover 2 is there any mention of a pre-configured cycle with plural nodes of the pre-configured cycle being configured "to protect at least one path segment, where the path segment includes at least two intersecting nodes within the pre-configured cycle and at least one intermediate node in a path that includes the two intersecting nodes and straddles the pre- configured cycle, the intermediate node not being a part of the pre-configured cycle and the pre- configured cycle providing two restoration paths to protect against a failure of a span straddling the pre-configured cycle and one restoration path for a failure of a span on the pre-configured cycle," as required by applicants' Claims 1 and 15.

Examiner answers:

That the answer provided for claims 1 and 15 above addresses this argument.

d) Regarding claims 11-12 and 25-26

Applicant argues:

That nowhere in Wang is there any mention of a pre-configured cycle with plural nodes of the pre-configured cycle being configured "to protect at least one path segment, where the path segment includes at least two intersecting nodes within the pre-configured cycle and at least one intermediate node in a path that includes the two intersecting nodes and straddles the pre- configured cycle, the intermediate node not being a part of the pre-configured cycle and the pre- configured cycle providing two restoration paths to protect against a failure of a span straddling the pre-configured cycle and one restoration path for a failure of a span on the pre-configured cycle," as required by applicants' Claims 1 and 15.

Examiner answers:

That the answer provided for claims 1 and 15 above addresses this argument.

e) Regarding claims 13-14 and 27-28

Applicant argues:

That Wang further adds nothing to the combination of Ellinas and Grover that would enable a skilled worker, at the time the invention was made, to produce applicants' invention as defined by Claims 1 and 15, and thus Claims 13-14 and 27-28 as well.

Examiner answers:

That the answer provided for claims 1 and 15 above addresses this argument.

d) Regarding claims 9 and 23

Applicant argues:

That for the reasons in relation to Claims 8 and 22, the combination of Ellinas, Grover, and Grover 2 does not render applicants' Claims 1 and 15 as obvious and therefore, Claims 9 and 23 are patentable in their current form.

Examiner answers:

The Examiner had indicated that claims 9 and 23 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims as well as any corrections to the objections made above. However since claims 1 and 15 are not patentable for the reasons given above, claims 9 and 23 are not patentable in their current form.

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

**(12) Conclusion**

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Art Unit: 2617

/Germán Viana Di Prisco/

Examiner, Art Unit 2617

Conferees:

/Rafael Pérez-Gutiérrez/

Supervisory Patent Examiner, Art Unit 2617

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October 22, 2009